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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,887	02/11/2002	Alexander E. Malison	ASI-101	3540
28970	7590	05/04/2006		
PILLSBURY WINTHROP SHAW PITTMAN LLP 1650 TYSONS BOULEVARD MCLEAN, VA 22102			EXAMINER SHERR, CRISTINA O	
			ART UNIT 3621	PAPER NUMBER

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/068,887	<b>Applicant(s)</b> MALISON, ALEXANDER E.	
	<b>Examiner</b> Cristina Owen Sherr	<b>Art Unit</b> 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-64 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

1. Claims 1-64 are presented for examination in this case.

***Election/Restrictions***

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-15, 41-51, and 58-64, drawn to a fixed location user interface for receiving item orders, classified in class 705, subclass 27.
  - II. Claims 34-40 and 52-57, drawn to a system for facilitating transactions from one or more mobile point of sale devices, classified in class 705, subclass 16.
  - III. Claims 16-33, drawn to an apparatus for recording an order, classified in class 715, subclass 704.
3. The inventions are distinct, each from the other because of the following reasons:
4. Inventions I, II and III are directed to related processes and transactions. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j). In the instant case, invention I is directed a fixed location user interface, while invention II is directed at a portable wireless interface for use in facilitating transactions. Although the uses are similar, the inventions are structurally different, one being portable and therefore necessarily wireless and the other a fixed apparatus. Invention III, drawn to an apparatus for recording an order, although related to inventions I and II, may be used

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independently of both, and both II and I may be used without necessarily recording the order(s).

5. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

6. Applicant is advised, in the event invention I is chosen, that invention I is further subject to an election of species.

7. Claims 1, 41, 58 and 61 are generic to the following disclosed patentably distinct species:

IA. Claims 2-5 are directed to an input area designed to receive handwritten alphanumeric input.

IB. Claims 6, 43, and 63 directed to a selection window adapted to receive a selection by touching on a displayed item.

ID. Claims 7 and 44 directed at an input area designed to recognize an abbreviation of an item as the handwritten input.

IE. Claim 8, directed at an entry status bar that displays characters that are entered.

IF. Claims 9 and 51 directed at a button that executes a command given with an order.

IG. Claim 10, directed at an input area adapted to receive keyboard input.

IH. Claims 11-15, 42, and 45-47 directed at an input area adapted to receive a second handwritten input indicating a modifier.

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II. Claim 48, directed at alerting the user to an error condition through nonvisual feedback.

IJ. Claim 50, directed at displaying and sending the order to a food preparation area.

IK. Claim 59, directed at an input section capable of receiving characters identifying groups of items.

IL Claim 62 and 64 directed at a selection window adapted to highlight a selection that has an abbreviation matching one or more characters received from the input area.

8. Applicant is advised, in the event invention II is chosen, that invention II is further subject to an election of species.

9. Claims 34 and 52 are generic to the following disclosed patentably distinct species:

IIA. Claims 35, 39-40, and 53 directed at a mobile POS device adapted to transmit an order through the POS server and to a central server.

IIB. Claim 36, directed at a mobile POS device adapted to transmit the order to a preparation area terminal.

IIC. Claim 37, directed at a manager workstation, a POS station and preparation area terminal, all in communication with a central server.

IID. Claim 54, directed a mobile POS device with a button wherein the selection is the press of the button, the touch of a highlighted item or a handwritten input.

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IIE. Claim 55, directed at a handwritten input that is a character and the items on the list have abbreviations beginning with said character.

IIF. Claims 56-57, directed at displaying prompts with respect to modifiers for the orders.

10. Applicant is advised, in the event invention III is chosen, that invention III is further subject to an election of species.

11. Claim 16 is generic to the following disclosed patentably distinct species:

IIIA. Claim 17, directed at handwritten input that is an abbreviation for an item.

IIIB. Claim 18, directed at a button adapted to send a second signal to the computer.

IIIC. Claim 19, directed at a directed at a wireless card in communication with the computer.

IIID. Claims 20-21, directed at an error notification device in communication with the computer.

IIIE. Claims 22-28, directed at a tether adapter to connect the computer to the user.

IIIF. Claim 29, directed at a credit card reader or a printer in communication with the computer.

IIIG. Claims 30-32, directed at a an input area that comprises a command input section, an item input section, and a numeric input section.

IIIH. Claim 33, directed at an input area adapted to receive a second handwritten input indicating a modifier.

12. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

13. The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

14. Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103 (a) of the other invention.

15. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

16. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations

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of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

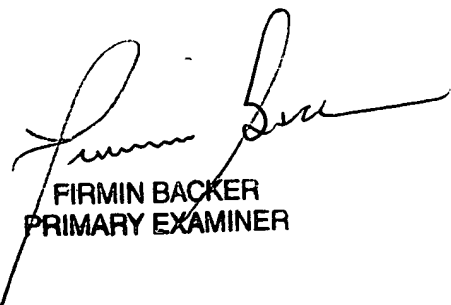
MPEP § 809.02(a).

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina Owen Sherr whose telephone number is 571-272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

18. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

19. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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